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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Jacques HABATJOU

Group Art Unit: 3752

Application No.: 10/830,121

Examiner: J. Boeckmann

Filed: April 23, 2004

Docket No.: 119426

For: A DEVICE FOR SPRAYING A SUBSTANCE, INCLUDING A REMOVABLE RESERVOIR

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the April 18 Restriction Requirement, Applicant provisionally elects Group I, claims 1-20, 43 and 44. The election is made with traverse.

Although the Office Action identifies claims 43 and 44 as belonging to Group II, Applicant respectfully submits that claims 43 and 44 belong to Group I because they depend from claim 1. Accordingly, should the Restriction Requirement be maintained, Applicant requests examination of all of the provisionally elected claims identified above.

The Office Action characterizes claims 1-20 as being "drawn to a spray device reservoir" and claims 21-46 as being "drawn to a spray device reservoir." However, each and every claim pending in this application is drawn to a spray device. For example, each of independent claims 1, 20 and 21 recites "A spray device comprising . . ." None of the claims is directed to "drawn to a spray device reservoir" as alleged to be Group I. Accordingly, based on the Office Action's identified Groups, all 46 claims belong to Group II and none belong to Group I.

Although the spray devices recited in the claims of the alleged Group I include a reservoir (see, for example, independent claims 1 and 20), so too do the spray devices recited in the claims of the alleged Group II (see, for example, independent claim 21). Thus, even if a Group was to

be identified as being "drawn to a spray device including a reservoir," all 46 claims would belong to that Group.

As discussed above, the basis for requiring restriction set forth in the Office Action is premised on an incorrect characterization of the claims that does not reflect a true distinction between the claims. Therefore, the Office Action fails to set forth a proper basis for requiring restriction.

It is also respectfully submitted that the subject matter of all claims is sufficiently related that a thorough search for the subject matter of any one Group of claims would encompass a search for the subject matter of the remaining claims. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office.

Thus, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,



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Date: May 18, 2006

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